

AMENDED IN ASSEMBLY APRIL 18, 2005

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 909

Introduced by Assembly Member Chavez

February 18, 2005

An act to add Section 1345.5 to the Health and Safety Code, and to add Section 10127.17 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 909, as amended, Chavez. Health care coverage.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan and health insurer to give notice of various actions and information to applicants for coverage and to enrollees and insureds.

This bill would authorize a health care service plan and a health insurer to provide notice, as defined, electronically if certain requirements are met.

Because a violation of the bill relating to health care service plans would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1345.5 is added to the Health and~~
2 ~~Safety Code, to read:~~

3 ~~SECTION 1. (a) The Legislature finds and declares the~~
4 ~~following:~~

5 ~~(1) In light of the electronic technological advancement in~~
6 ~~California, the electronic transmission of information is now~~
7 ~~more available to Californians, and those practices are common~~
8 ~~in the banking industry and used for filing personal income taxes.~~

9 ~~(2) Electronic transmission of information is not only~~
10 ~~convenient for Californians, but this process could be~~
11 ~~environmentally beneficial if it leads to less paper utilization and~~
12 ~~allows health care service plans and insurers to function in a~~
13 ~~more cost-effective manner.~~

14 ~~(b) It is, therefore, the intent of the Legislature to provide~~
15 ~~Californians the option to receive health care related notices by~~
16 ~~electronic transmission if they so choose.~~

17 ~~SEC. 2. Section 1345.5 is added to the Health and Safety~~
18 ~~Code, to read:~~

19 ~~1345.5. (a) A health care service plan may provide notice by~~
20 ~~electronic transmission and shall be deemed to have fully~~
21 ~~complied with the specific statutory or regulatory obligations to~~
22 ~~provide notice by United States mail to an applicant, enrollee, or~~
23 ~~subscriber, if it complies with all of the following requirements:~~

24 ~~(1) Obtains written authorization from the applicant, enrollee,~~
25 ~~or subscriber to provide notices by electronic transmission and~~
26 ~~to cease providing notices by United States mail. If the health~~
27 ~~care service plan obtains an application for coverage by~~
28 ~~electronic transmission, it may obtain authorization by electronic~~
29 ~~transmission from the applicant, enrollee, or subscriber to~~
30 ~~provide notices by electronic transmission.~~

31 ~~(2) Uses an authorization form in which the applicant,~~
32 ~~enrollee, or subscriber confirms understanding of the type of~~
33 ~~notices that will be provided by electronic transmission.~~

1 (3) *Complies with the specific statutory or regulatory*
2 *requirements as to the content of the notices it sends by*
3 *electronic transmission.*

4 (4) *Provides for the privacy of the notice as required by state*
5 *and federal laws and regulations.*

6 (5) *Allows the applicant, enrollee, or subscriber at any time to*
7 *terminate the authorization to provide notices by electronic*
8 *transmission and receive the notices through the United States*
9 *mail.*

10 (6) *Sends the electronic transmission of the notice to the last*
11 *known electronic address of the applicant, enrollee, or*
12 *subscriber. If the electronic transmission of the notice fails to*
13 *reach its intended recipient twice, the health care service plan*
14 *shall send the notice to the last known United States mail address*
15 *of the applicant, enrollee, or subscriber.*

16 (7) *Maintains an Internet Web site where the applicant,*
17 *enrollee, or subscriber may access the notices sent by electronic*
18 *transmission.*

19 (b) *A health care service plan shall not use the electronic mail*
20 *address of an applicant, enrollee, or subscriber for any purpose*
21 *other than sending a notice as described in subdivision (a).*

22 (c) *“Notice” for purposes of this section includes explanation*
23 *of benefits; responses to inquiries from an applicant, enrollee, or*
24 *subscriber; underwriting decisions; distribution of plan*
25 *contracts, including evidence of coverage and disclosure forms*
26 *pursuant to Title 28 of the California Code of Regulations;*
27 *Sections 1300.63.1 and 1300.63.2 of Title 28 of the California*
28 *Code of Regulations; notice of cancellation pursuant to Section*
29 *1367.23; list of contracting providers pursuant to Section*
30 *1367.26; and changes in rates or coverage pursuant to Sections*
31 *1374.21, 1374.22, 1374.23, and 1399.805.*

32 SEC. 3. *Section 10127.17 is added to the Insurance Code, to*
33 *read:*

34 10127.17. (a) *A health insurer may provide notice by*
35 *electronic transmission and shall be deemed to have fully*
36 *complied with the specific statutory or regulatory obligations to*
37 *provide notice by United States mail to an applicant or insured if*
38 *it complies with all of the following requirements:*

39 (1) *Obtains written authorization from the applicant or*
40 *insured to provide notices by electronic transmission and to*

1 *cease providing notices by United States mail. If the health*
2 *insurer obtains an application for coverage by electronic*
3 *transmission, it may obtain authorization by electronic*
4 *transmission from the applicant or insured to provide notices by*
5 *electronic transmission.*

6 *(2) Uses an authorization form in which the applicant or*
7 *insured confirms understanding of the type of notice that will be*
8 *provided by electronic transmission.*

9 *(3) Complies with the specific statutory or regulatory*
10 *requirements as to the content of the notices.*

11 *(4) Provides for the privacy of the notice as required by state*
12 *and federal laws and regulations.*

13 *(5) Allows the applicant or the insured at any time to*
14 *terminate the authorization to provide notices by electronic*
15 *transmission and receive the notices through the United States*
16 *mail.*

17 *(6) Sends the electronic transmission of the notice to the last*
18 *known electronic address of the applicant or the insured. If the*
19 *electronic transmission of the notice fails to reach its intended*
20 *recipient twice, the health insurer shall send the notice to the last*
21 *known United States mail address of the applicant or insured.*

22 *(7) Maintains an Internet Web site where the applicant or*
23 *insured may access the notices sent by electronic transmission.*

24 *(b) A health insurer shall not use the electronic mail address*
25 *of an applicant or insured for any purpose other than sending a*
26 *notice as described in subdivision (a).*

27 *(c) "Notice" for purposes of this section includes explanation*
28 *of benefits; distribution of plan contracts, including policies or*
29 *certificates of coverage; list of contracting providers; responses*
30 *to inquiries from insureds; notice of cancellation pursuant to*
31 *Sections 10199.1, 10199.2, 10199.4, and 10199.44; changes in*
32 *rates pursuant to Sections 10113.7 and 10901.3, and notices*
33 *related to underwriting decisions pursuant to 791.10.*

34 *SEC. 4. No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district will be incurred because this act creates a new crime or*
38 *infraction, eliminates a crime or infraction, or changes the*
39 *penalty for a crime or infraction, within the meaning of Section*
40 *17556 of the Government Code, or changes the definition of a*

1 *crime within the meaning of Section 6 of Article XIII B of the*
2 *California Constitution.*

3 ~~1345.5. (a) Notwithstanding Sections 1363, 1364.1, 1364.5,~~
4 ~~1366.25, 1367.23, 1367.26, 1373.65, 1374.21, 1374.22, 1374.23,~~
5 ~~1374.30, 1374.31, and 1399.805, Sections 1300.63.1 and~~
6 ~~1300.63.2 of Title 28 of the California Code of Regulations, or~~
7 ~~any other statute or regulation requiring a health care service plan~~
8 ~~to provide notice to an applicant, enrollee, or subscriber, a health~~
9 ~~care service plan may provide those notices and any other notice~~
10 ~~necessary or desirable in connection with the administration of~~
11 ~~coverage, by electronic transmission if both of the following~~
12 ~~requirements are satisfied:~~

13 ~~(1) The plan has obtained authorization from the applicant,~~
14 ~~enrollee, or subscriber to provide notice by electronic~~
15 ~~transmission.~~

16 ~~(2) The plan complies with the specific statutory or regulatory~~
17 ~~obligation as to the content of the notice and the privacy and~~
18 ~~security of the notice in its electronic transmission.~~

19 ~~(b) A health care service plan shall be deemed to have fully~~
20 ~~complied with any statutory or regulatory obligation to provide~~
21 ~~notice by United States mail to an applicant, enrollee, or~~
22 ~~subscriber if it complies with the requirements of subdivision (a).~~

23 ~~(c) "Notice" for purposes of subdivision (a) includes, but is~~
24 ~~not limited to, disclosure forms, written statements related to the~~
25 ~~reduction or elimination of emergency services; statements~~
26 ~~regarding the confidentiality of medical information and~~
27 ~~eligibility for COBRA continuation coverage or conversion~~
28 ~~coverage; notices relating to the termination of a contract or of~~
29 ~~coverage; provider listings, notices relating to the termination of~~
30 ~~provider contracts, rate or benefit changes, availability of~~
31 ~~independent medical review, and distribution of evidences of~~
32 ~~coverage; notices related to underwriting; notice of new~~
33 ~~products; responses to enrollee inquiries; notices related to~~
34 ~~preauthorization or preservice review; notices relating to appeal~~
35 ~~rights; and notices relating to the disposition of claims.~~

36 ~~SEC. 2. Section 10127.17 is added to the Insurance Code, to~~
37 ~~read:~~

38 ~~10127.17. (a) Notwithstanding Sections 791.10, 10113.7,~~
39 ~~10128.55, 10169, 10169.1, 10199.1, 10199.2, 10199.44, and~~
40 ~~10901.3 or any other statute or regulation requiring a health~~

insurer to provide notice to an applicant or insured, a health insurer may provide those notices and any other notice necessary or desirable in connection with the administration or coverage, by electronic transmission if both of the following requirements are satisfied:

(1) The health insurer has obtained authorization from the applicant or the insured to provide notice by electronic transmission.

(2) The health insurer complies with the specific statutory obligation as to the content of the notice and the privacy and security of the notice in its electronic transmission.

(b) A health insurer shall be deemed to have fully complied with any statutory or regulatory obligation to provide notice by United States mail to an applicant or insured if it complies with the requirements of subdivision (a).

(c) "Notice" for purposes of subdivision (a) includes, but, is not limited to, disclosure forms; written statements related to the reduction or elimination of emergency services; statements regarding the confidentiality of medical information and eligibility for COBRA continuation coverage or conversion coverage; notices relating to the termination of a contract or of coverage; provider listings; notices relating to termination of provider contracts, rate or benefit changes, availability of independent medical review, and distribution of evidences of coverage; notices related to underwriting; notice of new products; responses to inquiries; notices related to preauthorization or preservice review; notices relating to appeal rights; and notices relating to the disposition of claims.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.